

ORDINANCE NUMBER 1626

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING CHAPTER 18.04 OF THE MILWAUKIE CODE REGARDING REGULATION OF DEVELOPMENT IN FLOOD HAZARD AREAS (ZA-87-01), AND DECLARING AN EMERGENCY.

WHEREAS, the Flood Hazard Ordinance was adopted by the City Council on May 19, 1980, to regulate development in flood hazard areas in compliance with National Flood Insurance Program requirements, and

WHEREAS, new changes have occurred to the National Flood Insurance Program requiring local compliance by April 1, 1987, and

WHEREAS, amendments to the ordinance were considered at public hearings before the Planning Commission on March 24, 1987, and the City Council on April 21, 1987, and

WHEREAS, the City Council finds that the Flood Hazard Ordinance should be amended based upon the findings listed below,

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The following findings of fact and conclusions are adopted:

FINDINGS:

1. The proposed revisions are required due to changes in the National Flood Insurance Program.
2. The proposed revisions are taken from a model ordinance developed by the Federal Emergency Management Agency (FEMA). An earlier version of this same model ordinance was adopted by the City of Milwaukie as Ordinance Number 1461, and is codified as Chapter 18.04 of the Milwaukie Code.
3. The proposed revisions consist primarily of definition changes and additional requirements and do not change the scope or intent of the original ordinance.
4. The new amendments implement Flood Plain Policies of the City's Comprehensive Plan, which require regulation of new construction and development within Flood Plains (Policy 1. page 11).

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5. The City's Comprehensive Plan requires City participation in the Flood Insurance Program and update of its Flood Hazard Ordinance to comply with revisions to that program (Policy 5., page 12).

CONCLUSIONS:

1. The amendments proposed bring Milwaukie's Flood Hazard regulations into compliance with the Federal Flood Insurance Program.

Section 2. Amendments. Chapter 18.04 of the Milwaukie Code, which regulates development in flood hazard areas for the City of Milwaukie, is amended as follows:

- A. Section 18.04.030, Definitions, is supplemented by new definitions in proper order, as identified in Exhibit "A".
- B. The definitions identified in Exhibit "B" are deleted from Section 18.04.030.
- C. Section 18.04.120A(3) is amended to read as follows:
  - "3. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
    - (a) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of bouyancy;
    - (b) be constructed with materials resistant to flood damage;
    - (c) be constructed by methods and practices that minimize flood damages; and
    - (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding."
- D. Section 18.04.120B is amended to read as follows:
  - "B. Use of Available Base Flood Data.
    1. When base flood elevation data has not been provided for flood zones in accordance with Section 18.04.050, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD

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HAZARD, the Public Works Director shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Section 18.04.160A., SPECIFIC STANDARDS, Residential Construction, and Section 18.04.160B, SPECIFIC STANDARDS, Nonresidential Construction."

E. Section 18.04.160B(3) is amended to read as follows:

"3. Be certified by a registered profession engineer or architect that the design and methods of construction satisfy the standards of this subsection. Such certificates shall be provided to this official as set forth in Section 18.04.120C."

F. Section 18.04.160C(1) is amended to read as follows:

"1. All Manufactured Homes to be placed or substantially improved within Zones A1-30, AH, and AE (as identified on Flood Insurance Rate Maps) shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 18.04.150A."

G. Replace the word "mobile" with the word "manufactured" in the following sections:

Section 18.04.100  
Section 18.04.150A(2)  
Section 18.04.150A(2)(a)  
Section 18.04.150A(2)(b)  
Section 18.04.150A(2)(d)  
Section 18.04.160C(title)  
Section 18.04.160C(2)  
Section 18.04.160C(2)(a)  
Section 18.04.160C(3)  
Section 18.04.170C

H. Insert a new section to be identified as Section 18.04.160D and reading as follows:

"D. Miscellaneous Provisions.

1. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this

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requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

2. Provisions of this Chapter are to be administered concurrently with those of Ordinance 1438, the Zoning Ordinance of the City of Milwaukie, Oregon."

Section 3. Emergency. Because changes to the Federal Flood Insurance Program became effective April 1, 1987 and delays to Milwaukie's compliance could affect flood insurance rates in certain cases, an emergency exists and the Ordinance is necessary to preserve the peace, health, and safety of the community. Therefore, this Ordinance shall take effect immediately upon its final passage.

Read the first time on April 21, 1987, 1987, and moved to second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council on April 21, 1987, 1987.

Roger Hall  
Roger Hall, Mayor

ATTEST:

Terri Widner  
Terri Widner, City Recorder

Approved as to form:

Greg Eades  
Greg Eades, City Attorney

ORDINANCE NUMBER 1626 Exhibit "A"  
Additions to Section 18.04.030 Definitions

"CRITICAL FEATURE" means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

"FEMA" means the Federal Emergency Management Agency.

"LEVEE" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

"LEVEE SYSTEM" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

"LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

"MANUFACTURED HOME" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term "manufactured homes" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured homes" does not include park trailers, travel trailers, and other similar vehicles.

"MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"MEAN SEA LEVEL" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are reinforced.

"REMEDY A VIOLATION" means to bring a structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

"START OF CONSTRUCTION" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"VIOLATION" means the failure of a structure or other development to be fully compliant with the City's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the FEMA standards is presumed to be in violation until such time as that documentation is provided.

"WATER SURFACE ELEVATION" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

ORDINANCE NUMBER 1626 Exhibit "B"  
Deletions from Section 18.04.030. Definitions

"EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

"EXPANSION OF AN EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION" means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

"MOBILE HOME" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

"NEW MOBILE HOME PARK OR MOBILE HOME SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this ordinance.

"START OF CONSTRUCTION" means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include the excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivision, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.